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FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich, Commissioners Baker, Gómez, Wilson, and Wood

From: Dave Bainbridge, General Counsel
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Subject: Adoption of Cost-of-Living Adjustment (“COLA”) to Contribution Limits,
Voluntary Expenditure Ceilings and Gift Limit

Date: November 7, 2022

Executive Summary

Staff recommends amending Regulations 18545, 18700, 18730, and 18940.2 to make biennial cost of living adjustments (COLA) to regulations establishing applicable contribution limits, voluntary expenditure ceilings, state officeholder contributions, and the gift limit for January 1, 2023, through December 31, 2024, as required by the Political Reform Act¹ (Act).

Reason for Proposed Regulatory Action

Government Code Sections 83124, 85301(d)(1), 85316(b)(4), and 89503(f), charge the Commission with making COLA adjustments to reflect changes in the Consumer Price Index (“CPI”), in January of every odd-numbered year, to the following statutory limits:

- Contribution limits (Sections 85301, 85302, and 85303),
- Voluntary expenditure ceiling amounts (Section 85400);
- State officeholder contribution limits (Section 85316(b)); and
- Gift limits (Section 89503).

Adjusted limits for contributions, voluntary expenditure ceilings, and state officeholder contributions are specified in Regulation 18545. The adjusted gift limit is specified in 18940.2 and referenced in Regulations 18700 and 18730, and 18940.2. Accordingly, these regulations must be amended to reflect the amounts that will take effect on January 1, 2023.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Background/Proposed Amendments

Section 82001 defines the COLA adjustment as follows:

“Adjusting an amount for cost-of-living changes” means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

I. *Contribution, Voluntary Expenditure Ceiling, State Officeholder Contribution Limit Adjustment.*

Limits for contributions and voluntary expenditures were initially added under the “Campaign Contributions and Spending Limits Act of 2000,” approved by voters as Proposition 34. Section 85301 limits contributions from persons; Section 85302 limits contributions from small contributor committees; Section 85303 limits contributions to committees and political parties; and Section 85400 sets voluntary expenditure ceilings. Added in 2006, Section 85316(b), allowed the establishment of a separate officeholder account for officeholder expenses subject to calendar year contribution limits, to be given a COLA adjustment in odd-numbered years to reflect changes in the CPI.

Regulation 18544 sets forth three formulas used to make the COLA adjustments to the contribution, voluntary expenditure ceiling, and state officeholder contribution limits found in Sections 85301, 85302, 85303, 85400, and 85316(b), respectively. Each formula multiplies the initial limit (according to the year each limitation was enacted), by the quotient of the updated annual CPI divided by the base annual CPI (for enactment year). Equations for each formula are provided below.

Regulation 18544(c) specifies the source for the CPI figure as follows:

The adjustments shall be based upon the Department of Finance Consumer Price Index Forecast, May Revise, annual California Consumer Price Index for All Urban Consumers, for the calendar year immediately preceding the year in which the adjustment is to take effect.

Under this regulation, the Commission’s adjustment uses the CPI figure obtained from the California Department of Finance (“DOF”), which bases its CPI calculations on Bureau of Labor Statistics figures. The DOF Consumer Price Index Forecast, May Revise (prepared April 2022) states that the applicable forecast annual 2022 California CPI is “317.8.”²

Regulation 18545 states the current per year contribution limits, voluntary expenditure ceiling amounts, and state officeholder contribution limits.

² A forecast annual CPI is used because the actual CPI for a given year is not available until mid-January of the following year. See <https://dof.ca.gov/wp-content/uploads/Forecasting/Economics/Documents/US-CA-Inflation-Forecast-MR-2022-23.xlsx>, CPI-U all items for 2022, for the relevant CPI figure.

A. Contribution Limits³

For purposes of contribution limits, Regulation 18544(a)(1) states:

The contribution limitations in Government Code Sections 85301, 85302 and 85303 shall be adjusted biennially by the Commission to reflect changes in the California Consumer Price Index (CPI). The adjustments shall be made using the following formula: the contribution limit amount in effect January 1, 2001, multiplied by the annual CPI, divided by the base CPI from 2000, rounded to the nearest one hundred dollars (\$100). (*fn.omitted.*) The resulting figure shall be the adjusted contribution limitation in effect for all state elections held until the next odd numbered year.

The above language is expressed as the following equation:

$\text{Applicable Limit 2001} \times [317.8 \text{ (2022 Annual CPI*)} / 174.8 \text{ (2000 CPI)}] =$ 2023 Limit** <p>* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2022. ** Rounded to the nearest \$100 for contribution limits.</p>

Additionally, under Section 85301(d)(1), which took effect January 1, 2021:

[A] person shall not make to a candidate for elective county or city office, and a candidate for elective county or city office shall not accept from a person, a contribution totaling more than the amount set forth in subdivision (a) per election, as that amount is adjusted by the Commission pursuant to Section 83124. This subdivision does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

Accordingly, local candidates not subject to county or city imposed contribution limits, are now subject to the same contribution limit determined under Regulation 18544(a), and the above formula, for a candidate for state elective office under Section 85301(a).

B. Voluntary Expenditure Ceilings

Regulation 18544(a)(2) states:

³ These limits were added under the “Campaign Contributions and Spending Limits Act of 2000,” approved by voters as Proposition 34, Stats. 2000, c. 102. Section 85301 limits contributions from persons; Section 85302 limits contributions from small contributor committees; Section 85303 limits contributions to committees and political parties; and Section 85400 sets voluntary expenditure ceilings. Base year figures for these limitations are from the year 2000.

The voluntary expenditure ceilings in Government Code Section 85400 shall be adjusted biennially by the Commission to reflect changes in the California Consumer Price Index. The adjustment shall be made using the following formula: the voluntary expenditure ceiling amount in effect January 1, 2001, multiplied by the annual CPI, divided by the base CPI from 2000, rounded to the nearest one thousand dollars (\$1,000). (*fn. omitted.*) The resulting figure shall be the adjusted voluntary expenditure limitation in effect for all state elections held until the next odd numbered year.

The above language is expressed as the following equation:

$\text{Applicable Limit 2001} \times [317.8 \text{ (2022 Annual CPI*)} / 174.8 \text{ (2000 CPI)}] =$ 2023 Limit** <p>* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2022. ** Rounded to the nearest \$1,000 for voluntary expenditure ceiling amounts.</p>

C. State Officeholder Contribution Limits

Regulation 18544(b) states:

For purposes of Government Code Section 85316(b)⁴, beginning the year 2006 the cost of living adjustment shall be calculated as follows.

(1) The contribution limitation shall be adjusted biennially by the Commission to reflect changes in the California Consumer Price Index (CPI). The adjustment shall be made using the following formula: the contribution limit amount in effect January 1, 2007, multiplied by the annual CPI, divided by the base CPI from 2006, rounded to the nearest one hundred dollars (\$100). The resulting figure shall be the adjusted contribution limitation in effect for all state officeholders until the next odd numbered year.

The above language is expressed as the following equation:

⁴ Subdivision (b) of Section 85316, allowed the establishment of a separate officeholder account for officeholder expenses subject to calendar year contribution limits, to be given a COLA adjustment in odd-numbered years to reflect changes in the CPI. This subdivision added by Stats. 2006, c. 624. Base year figures for these limitations are from year 2006.

<p>Applicable Limit 2007 X [317.8 (2022 Annual CPI*) / 210.5 (2006 CPI)] =</p> <p>2023 Limit**</p> <p>* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2022. ** Rounded to the nearest \$100 for state officeholder contributions.</p>

II. *Contribution, Voluntary Expenditure Ceiling, State Officeholder Contribution Limit Adjustment: Proposed Regulation 18545.*

Regulation 18545 states the current per year contribution limits, voluntary expenditure ceiling amounts, state officeholder contribution limits. Proposed Regulation 18545 amends these limits and amounts to reflect the required cost of living adjusted limits for calendar years 2023 to 2024. Proposed language also updates the applicable time periods. Using the above formulas and CPI figure, the COLA adjusted amounts are summarized in the following tables:

Campaign Contribution Limits	2001 Limit	Existing Limit	Adjusted Limit 2023-2024
Assembly, Senate, CalPERS/CALSTRS	\$3,000	\$4,900	\$5,500
Statewide, Other than Governor	\$5,000	\$8,100	\$9,100
Governor	\$20,000	\$32,400	\$36,400

Small Contributor Committee Limits (Defined in Section 85203)	2001 Limit	Existing Limit	Adjusted Limit 2023-2024
Assembly, Senate, CalPERS/CALSTRS	\$6,000	\$9,700	\$10,900
Statewide, Other than Governor	\$10,000	\$16,200	\$18,200
Governor	\$20,000	\$32,400	\$36,400
PAC for State Candidates Section 85303(a)	\$5,000	\$8,100	\$9,100
Political Party Committees for State Candidates Section 85303(b)	\$25,000	\$40,500	\$45,500
Elective City or County Office Section 85301(d)	\$3,000	\$4,900	\$5,500

Voluntary Expenditure Ceilings	2001 Limit	Existing Limit	Adjusted Limit 2023-2024
Assembly, Primary	\$400,000	\$649,000	\$727,000
Assembly, General	\$700,000	\$1,135,000	\$1,273,000
Senate, Primary	\$600,000	\$973,000	\$1,091,000
Senate, General	\$900,000	\$1,459,000	\$1,636,000
Board of Equalization, Primary	\$1,000,000	\$1,621,000	\$1,818,000
Board of Equalization, General	\$1,500,000	\$2,432,000	\$2,727,000
Other Statewide, Primary	\$4,000,000	\$6,485,000	\$7,272,000
Other Statewide, General	\$6,000,000	\$9,728,000	\$10,908,000
Governor, Primary	\$6,000,000	\$9,728,000	\$10,908,000
Governor, General	\$10,000,000	\$16,212,000	\$18,181,000

Officeholder Account Contribution Limits	2007 Limit	Existing Limit	Adjusted Limit 2023-2024
Assembly, Senate	\$3,000	\$4,000	\$4,500
Statewide, Other than Governor	\$5,000	\$6,700	\$7,500
Governor	\$20,000	\$26,900	\$30,200

Aggregate Officeholder Contribution Limits (Total amount of contributions allowed from all sources per Section 85316(b).)	2007 Limit	Existing Limit	Adjusted Limit 2023-2024
Assembly, Senate	\$50,000	\$67,300	\$75,500
Statewide, other than Governor	\$100,000	\$134,600	\$151,000
Governor	\$200,000	\$269,300	\$301,900

III. *Gift Limit Adjustment.*

Section 89503 was enacted in 1990 and established a gift limit for specified public officials. Section 89503(f) charges the Commission with adjusting the gift limitation, and states:

Beginning on January 1, 1993, the Commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10).

Regulation 18940.2(a) states the gift limit amount and the applicable time period, and currently provides:

For purposes of Section 89503, the adjusted annual gift limit amount in effect for the period January 1, 2021, to December 31, 2022, is \$520.

Regulations 18700 and 18730 also reference the applicable gift limit. The following formula is used to calculate the adjusted gift limit:

$\text{Applicable Limit 1990 (\$250)} \times \left[\frac{317.8 \text{ (2022 Annual CPI*)}}{135 \text{ (1990 CPI)}} \right] =$ <p style="text-align: center;">2023 Limit**</p> <p style="text-align: center;">* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2022. ** Rounded to the nearest \$10 for gift limit.</p>

IV. *Gift Limit Adjustment: Proposed Regulations 18700, 18730, and 18940.2.*

Using the above formula, and the Department of Finance 2022 estimated CPI figure, the gift limit for January 1, 2023, through December 31, 2024, will be \$590⁵. This is an increase of \$70 from the prior two-year period. Proposed Regulations 18700, 18730, and 18940.2 reflect the adjusted gift limit with approval of this item.

Summary of Public Comment & Responses

No public comments have been received to date.

Education/Outreach Efforts

Amended contribution limits, voluntary expenditure ceilings, state officeholder contribution limits, and the gift limit will be featured on the Commissions website. Additionally, Commission staff will distribute the regulations to interested parties by means of the “Newly Adopted, Amended or Repealed Regulations” email list, and update the “Newly Adopted, Amended or Repealed Regulations” page on the website. Staff will also revise applicable educational materials and Commission forms, note the new limits during various trainings, and broadcast the new limits on social media.

⁵ Section 89503, gift limits, was originally added by Stats. 1990, c. 84. The base year figure for this limitation is from year 1990.

Conclusion

The proposed regulations are mandated by the Act, which requires the Commission to make biennial cost of living adjustments to contributions limits, voluntary expenditure ceilings, state officeholder contribution limits, and the gift limit. Staff recommends the adoption of the proposed amendments.

Attachments:

- Proposed Regulation 18545
- Proposed Regulation 18700
- Proposed Regulation 18730
- Proposed Regulation 18940.2